

REMARKS

This paper is being filed in response to the Office Action mailed on May 9, 2011.

STATUS OF THE CLAIMS

Claims 1, 3-13, and 16-30 are in the Application, of which claims 1, 16, and 29 are in independent form. Claims 2, 14, and 15 were previously canceled without prejudice or disclaimer. Claims 1, 3, 5-13, 16-25, and 27-30 are amended herein. No new matter is believed to have been added with these amendments.

In the Office Action, claims 1, 3-13, and 16-25 and 27-30 stand rejected under 35 U.S.C. § 112 ¶ 1 as purportedly reciting new matter. Claims 1, 3-13, and 16-30 stand rejected under 35 U.S.C. § 112 ¶ 2 as purportedly being indefinite. Claims 1, 3-13, and 16-30 stand rejected under 35 U.S.C. § 102 as purportedly being anticipated by U.S. Patent Application Publication No. 2003/0093361 by Yoshida et al. ("Yoshida" hereafter).

The Applicants appreciate the Examiner's thorough examination of the Application and respectfully request reexamination and reconsideration of the claims in view of these amendments and remarks. With these amendments and remarks, the Applicants have addressed all of the issues raised in the Office Action. Therefore, the Applicants submit that the Application is in condition for allowance and respectfully request the same.

REMARKS REGARDING THE AMENDMENTS TO THE CLAIMS

The Applicants have amended claims 1, 3, 5-13, 16-25, and 27-30 to clarify what is being claimed. Claim 1 recites,

"recording a request for at least one service or tangible, non-monetary asset for use in an event from an event owner, the request having a fulfillment cost related to the event, wherein the request is received using a computing device;

making the request available to a plurality of providers using the computing device, wherein the request made available to a first one of the providers indicates that a sponsorship offer is available to the first provider;

responsive to making the request available, receiving at the computing device a provider offer from the first provider, the provider offer comprising a sponsorship offer comprising:

a plurality of marketing opportunities to be given to the first provider, and
an indication of a portion of the fulfillment cost of the requested service or tangible, non-monetary asset to be defrayed by the plurality of marketing opportunities;
receiving an acceptance of the provider offer; and
assembling a contract comprising one or more clauses corresponding to the plurality of marketing opportunities of the sponsorship offer responsive to receiving the acceptance.” Emphasis added; *also* see claims 16 and 29.

The Applicants respectfully submit that the amendments do not represent new matter and conform with the provisions of 35 U.S.C. § 112 ¶¶ 1 and 2.

The Application teaches systems and methods for a sponsorship exchange between an event owner and a service/asset provider. See Application ¶ [0004]. The event owner requests services/assets from a provider and, in exchange for giving the provider “marketing opportunities” at the event, which can defray a portion of the cost of the services/assets:

“...an agreement between an ‘owner’ of a marketing, sales, technical, or other business event and one or more asset/service providers in which fees for services/assets to be provided for the event are leveraged in full or in part by service/product placements, advertising, and other sponsorship or marketing opportunities for the asset/service provider related to the event...the sponsorship exchange sets up a quid pro quo benefiting the event owner in the form of no-cost, or nominal/reduced fee services or assets. In turn, the asset/service provider is getting product placement, branding or other advertising at a venue it would otherwise have to pay for...” Application ¶ [0004]; emphasis added.

The Application teaches that the event owner can record a request for an asset/service, and that the request may include an indication of whether the event owner is interested in a sponsorship exchange:

“...a determination is made by the agent server whether the event owner wants to consider sponsorship trade for assets/services presented in the confirmed request. If so...the agent server apprises the provider system(s)...of the event owner’s sponsorship interest for the request.” Application ¶ [0023]; emphasis added; *also* see Application ¶¶ [0012] and [0021]-[0022].

The disclosure further teaches that the agent server may selectively make the sponsorship offer available to certain providers; the event owner may be interested in a sponsorship exchange with a first provider, but not with a second provider. For

example, an event focused on Apple® software development, may not be interested in offering sponsorship opportunities to competitive systems, such as Dell® computers, or the like. The disclosure teaches, “the agent server can indicate whether sponsorship is possible with respect to one or more of these providers.” Application ¶ [0025]; emphasis added. Accordingly, the request available to a first provider may indicate the availability of a sponsorship opportunity, whereas the request available to a different provider (a second provider) may not allow a sponsorship opportunity.

The Applicants have amended the claims to clarify these features, claim 29 recites:

determining whether a sponsorship offer is available to each of a plurality of providers capable of providing the requested service or non-monetary, tangible asset for the event...

wherein the request transmitted to each provider indicates whether a sponsorship offer is available to the respective provider, and wherein the request transmitted to a first one of the providers indicates that a sponsorship offer is available and the request transmitted to a second one of the providers indicates that a sponsorship offer is not available.” Emphasis added; *a/so* see claims 8 and 18.

Responsive to making the request available, one or more provider offers may be received. See Application [0026]-[0027]. The provider offer may comprise a sponsorship offer, that includes an “array” or marketing opportunities to be given to the provider to defray the cost of the requested asset/service:

“[i]f...the provider offer includes a sponsorship component, the provider offer is deemed to be a sponsorship offer...the sponsorship offer can include an array of sponsorship [marketing] opportunities...including those listed in the sponsorship offer presented in Figs. 5A-C.” Application [0027]-[0028]; emphasis added.

As illustrated in Figures 5A-C, the sponsorship offer of a provider offer may reference a request for an asset/service (*e.g.*, eighty Handheld PPC Bluetooth devices, and twenty Pocket PC Sleeves), and may comprise a plurality of different marketing opportunities (*e.g.*, keynote branding inclusion, event guide branding inclusion, event post conference marketing opportunities, and so on):

Hardware Request

Contact WinGear.NET about this request.

My Requests

Request Details (ID #265)

Request Status: 0 Pending

Request Type: Event Request

Requestor: test@test.com

Event Name: nn

City/State/Postal: nn, AR

Country: usa

Hardware Acquisition: 11/11/2002

Hardware Return: 12/1/2002

Follow up: 10/23/2002

10:00 am pdt

WinGear.NET Partners

Logo

Logo

Keynote Branding Inclusion:

➤ Partner Logo on rotating slide during walk-in to keynote

➤ Factoids/Logo on screen during General Session/Keynote walk-in

➤ Two Partner video clips during General Session/Keynote walk-ins (subject to event owner approval)

Event Guide Branding Inclusion:

➤ Logo on Conference Guide inside cover

➤ Logo on partner page in Conference Guide with 100 word description/positioning

➤ Opportunity for sponsor hosted ancillary event

Event Post Conference Marketing Opportunities:

➤ Blind usage of attendee database

Hardware Requested	Quantity	30-Day Rental Estimate *	WinGear.NET Daily Cost **
Handheld -- Handheld PPC Bluetooth	80	\$12,000	\$8,400
Handheld -- Pocket PC Sleeve	20	\$1,000	\$1,680
Total	100	\$13,000	\$10,080
Total After Sponsorship Trade			\$0

* "30-Day Rental Estimate" based on an average of industry standard rates.

** WinGear.NET daily rate will match competitive "30-Day Rental Estimate" for first 30 days.

NOTE: Orders over 30 days will be calculated on a daily rate based on quantity and equipment requested. See Terms and Conditions for details.

Figures 5A-C

As taught in the Application, the sponsorship offer may also indicate the portion of the cost of the asset/server defrayed by the marketing opportunities; in the Figure 5C example, the entire cost is defrayed (total after sponsorship trade is \$0).

The Application teaches facilitating an “end-to-end” exchange, in which the event owner accepts the provider offer, and, responsive to the acceptance, the agent server generates a “custom-assembled contract having one or more clauses selected based on at least one [of] the event, the event owner, the provider, and the circumstances of

the sponsorship offer.” Application ¶ [0031]; emphasis added; *also see* claims 1, 16, and 29.

The Applicants have amended claim 16 to further recite:

“a provider agent operating on the agent server configured to construct a provider offer for the first provider responsive to the provider agent determining that the request available to the first provider is within a scope of agency of the provider agent, wherein the provider agent is configured to construct the provider offer based upon a directive of the first provider.” Emphasis added.

The Application teaches a “provider agent” that is configured determine whether a particular event is within the “scope of agency” (e.g., discretion) of the agent and, if so, to construct an appropriate provider offer responsive to a request; the provider offer may include a sponsorship component determined according to “directives” of the provider:

“If...an assessment is made that the event is within an agent’s discretion, the agent server may interact with the agent, human or artificial, and seek the agent’s guidance to construct an appropriate offer...which may...include a sponsorship trade consistent with the agent’s directives from the provider it represents.” Application ¶ [0026]; emphasis added.

REJECTION CLAIMS 1, 3-13 AND 16-30 UNDER 35 U.S.C. § 112 ¶ 1

The Office Action purports that the limitation, “providing for distributing the branded, tangible items” as recited in claims 1, 3-13, and 16-30 is not supported in the disclosure. See Office Action pgs. 3-4. The Applicants have amended these claims to remove this limitation, rendering these rejections moot.

REJECTION CLAIMS 1, 3-13 AND 16-30 UNDER 35 U.S.C. § 112 ¶ 2

The Office Action purports that the term “selecting the selected provider” is indefinite due to confusion regarding how the “select provider” is actually selected. See Office Action pg. 4. The Applicants have amended claims 1, 16, and 29 to remove these terms, rendering these rejections moot. See claims 1, 16, and 29 as amended herein.

The Office Action further purports that the term, “providing for distributing the branded, tangible items” is unclear. Id. The Applicants have amended claims 1, 16,

and 29 to remove these terms, rendering these rejections moot. See claims 1, 16, and 29 as amended herein.

The Office Action purports that the “two or more sponsorship opportunities, wherein at least one...comprises distributing branded, tangible items,” is inconsistent with a subsequent term that does not include the “at least one” limitation. See Office Action pg. 5. The Applicants have amended the claims to remove the “wherein at least one...comprises” terms, rendering these rejections moot. See claims 1, 16, and 29 as amended herein.

The Office Action purports that claim 16 recites inconsistent features for the “agent server” (that is to “allow” and “providing” for distributing branded, tangible items). Id. The Applicants have amended claim 16 to remove the “distributing branded, tangible items” feature, rendering this rejection moot. See claim 16 as amended herein.

The Office Action purports that claims 17-18, which recite, “wherein the agent server identifies a provider capable of providing the requested service...” and “transmits the request...to the identified provider” are indefinite in that it is unclear whether the “identifies a provider” is similar to the selecting the selected provider.” The Applicants have amended claim 16 to remove the “selecting the select provider,” rendering these rejections moot.

REJECTION OF CLAIMS 1, 3-13, AND 16-30 UNDER 35 U.S.C. § 102

The Applicants respectfully traverse the rejection of claims 1, 3-13, and 16-30 under 35 U.S.C. § 102 even Yoshida fails to disclose each and every element of these claims. A claim is properly anticipated under 35 U.S.C. § 102 only if “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” MPEP § 2131, *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 at 631 (Fed. Cir. 1987); emphasis added. “The identical invention must be shown in as complete detail as is contained in the . . . claim.” MPEP § 2131, *citing Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 at 1236 (Fed. Cir. 1989); emphasis added. Accordingly, all of the limitations must be arranged or combined in the same way as recited in the claim. Net MoneyIN Inc. v. VeriSign Inc., 88 USPQ2d 1751 (Fed. Cir. 2008). Yoshida fails to disclose at least, “assembling a contract

comprising one or more clauses corresponding to the plurality of marketing opportunities of the sponsorship offer,” and/or ““an agent...configured to construct an provider offer,” and/or “determining whether a sponsorship offer is available to each of a plurality of providers,” as recited in the claims. See claims 1, 16, and 29.

YOSHIDA FAILS TO DISCLOSE ASSEMBLING A CONTRACT AS RECITED IN THE CLAIMS

The Applicants have amended the claim 1 to recite:

“...receiving...a provider offer from the first provider, the provider offer comprising a sponsorship offer comprising:
a plurality of marketing opportunities to be given to the first provider, and
an indication of a portion of the fulfillment cost...to be defrayed by the plurality of marketing opportunities... and
assembling a contract comprising one or more clauses corresponding to the plurality of marketing opportunities of the sponsorship offer responsive to receiving the acceptance.” Emphasis added; *also* see claim 16.

The Applicants do not believe, nor does the Office Action purport, that Yoshida discloses “assembling a contract.” Although Yoshida mentions a “brokerage business operator” that attempts to match a sponsorship request with an “operator” (the “parties of contract”), Yoshida does not disclose “assembling a contract,” much less “assembling a contract comprising one or more clauses corresponding to the plurality of marketing opportunities of the sponsorship offer,” as recited in the claims. See claims 1 and 16. Therefore, Yoshida fails to disclose each and every feature recited in claims 1, and 16.

YOSHIDA FAILS TO DISCLOSE A PROVIDER AGENT AS RECITED IN THE CLAIMS

The Applicants have amended claim 16 to recite, “

“a provider agent operating on the agent server configured to construct a provider offer for the first provider responsive to the provider agent determining that the request available to the first provider is within a scope of agency of the provider agent, wherein the provider agent is configured to construct the provider offer based upon a directive of the first provider.” Emphasis added; *also* see Application ¶ [0026].

The Applicants do not believe, nor does the Office Action purport, that Yoshida discloses a “provider agent” as recited in the claims. Although Yoshida does mention matching pre-determined “sponsorship request” with a sponsor “registration form,” this is not what is claimed. See Yoshida ¶¶ [0391]-[0462]. In contrast, claim 16 does not recite matching pre-determined forms, but “a provider agent...to construct a provider offer.” Emphasis added. Moreover, claim 16 further recites, “a provider agent...determining that the request...is within a scope of agency of the provider agent” and constructing the provider offer, “based upon a directive of the first provider.” Therefore, the Applicants respectfully submit that matching pre-determined “sponsorship request,” and “condition” registration forms cannot disclose these features.

YOSHIDA FAILS TO DISCLOSE A DETERMINING WHETHER TO OFFER A SPONSORSHIP OFFER TO EACH OF A PLURALITY OF PROVIDERS

Claim 29 recites,

“determining whether a sponsorship offer is available to each of a plurality of providers capable of providing the requested service or non-monetary, tangible asset for the event;

transmitting the request to each of the plurality of providers, wherein the request transmitted to each provider indicates whether a sponsorship offer is available to the respective provider, and wherein the request transmitted to a first one of the providers indicates that a sponsorship offer is available and the request transmitted to a second one of the providers indicates that a sponsorship offer is not available.” Emphasis added; *also see* claims 8 and 18.

Yoshida fails to disclose these features. As noted in the Office Action, Yoshida appears to discuss a “sponsorship request” form that includes “sponsorship conditions.” See Yoshida ¶ [0394]; *also see* Figs 16, 18, and 19. Yoshida states that these pre-determined forms are used to identify potential sponsors (*e.g.*, are stored in a database). *Id.* *also see* Fig. 4. Yoshida does not appear to contemplate different sponsorship conditions for different potential providers; all providers are subject to the same pre-determined conditions. See Yoshida ¶ [0397]. By contrast, the claims recite, “determining whether a sponsorship offer is available to each of a plurality of providers...” and “the request...indicates whether a sponsorship offer is available to the

respective provider.” The pre-determined sponsorship form discussed in Yoshida cannot disclose these features.

YOSHIDA FAILS TO ANTICIPATE THE CLAIMS

As illustrated above, Yoshida fails to disclose, “assembling a contract comprising one or more clauses corresponding to the plurality of marketing opportunities of the sponsorship offer,” and/or “an agent...configured to construct an provider offer,” and/or “determining whether a sponsorship offer is available to each of a plurality of providers,” as recited in the claims. See claims 1, 16, and 29. Therefore, the Applicants respectfully traverse the rejection of claims 1, 3-13, and 16-30 under 35 U.S.C. § 102.

GENERAL CONSIDERATIONS

By the remarks provided herein, the Applicants have addressed all outstanding issues presented in the Office Action. The Applicants note that the remarks presented herein have been made merely to clarify the claimed invention from elements purported by the Office Action to be taught by the cited references. Such remarks should not be construed as acquiescence, on the Applicants’ part, as to the purported teachings or prior art status of the cited references, nor as to the characterization of the cited references advanced in the Office Action. Accordingly, the Applicants reserve the right to challenge the purported teachings and prior art status of the cited references at an appropriate time.

CONCLUSION

For the reasons discussed above, the Applicants submit that the claims are in proper condition for allowance, and a Notice of Allowance is respectfully requested. If the Examiner notes any further matters that may be resolved by a telephone interview, the Examiner is encouraged to contact Kory Christensen by telephone at (801) 578-6993.

Respectfully submitted,

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